PATENT APPLICATION
Attorney Docket No. CH920030025US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	
Birgit M. PFITZMANN et al.	Examiner: SHEHNI, Ghazal B.
Serial No: 10/597,664	Art Unit: 2436
Filed: August 3, 2006	
For: DIGITAL RIGHTS MANAGEMENT	

APPEAL BRIEF

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Appellants submit this brief pursuant to 37 C.F.R. §41.37(a)(1) in furtherance of the Notice of Appeal filed herewith.

Please apply the previously paid appeal brief fee and charge Deposit Account 50-0510 the $80 difference due to the increased fee since the previously paid appeal brief fee was filed. No other fee is believed due with this Appeal Brief, however, should another fee be required please charge Deposit Account 50-0510. Should any extensions of time be required, please consider this a petition thereof and charge Deposit Account 50-0510 the required fee.

Real Party in Interest

The real party in interest is International Business Machines Corporation, as evidenced by the assignment set forth at Reel 020682, Frame 0983.

Related Appeals and Interferences

The Appellants' legal representative does not know of any other appeal, interference or judicial proceeding which will affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1, 4-32 and 34 are pending in the present Application, with claims 1, 12, 21, 23, 25, 27, 29 and 31 being independent claims. Claims 2, 3 and 33 are cancelled. The rejection of claims 1, 4-32 and 34 is appealed.

Status of Amendments

No amendments to the claims were made after the Office Action dated August 4, 2011 ("OA") reopening prosecution in view of the Appeal Brief filed on April 25, 2011 was entered.

Summary of the Claimed Subject Matter

Independent claim 1 recites a software licence management system in which a licence to use a software product is

represented by a data token. App., pp. 13, ll. 11-13, Fig. 1. The system includes a software controller at a user device for controlling use of a software product at the user device. App., pp. 12, ll. 31 - pp. 13, ll. 2, Fig. 1, item 6a. The software controller is adapted for allowing use of the software product at the user device substantially only during a use period associated with a current data token representing the licence for the software product and supplied to the software controller by a licence management server. App., pp. 13, ll. 20 - pp. 14, ll. 2, pp. 23, ll. 1-3, Fig. 2. The licence management server communicates with the software controller via a data communications network. App., Fig. 1, item 5. The software controller is further adapted for enabling user access to an exchange token, dependent on the current data token supplied by the licence management server. App., pp. 19, ll. 1-6, pp. 24, ll. 11-19, Fig. 6. The exchange token can be supplied as a current data token to another software controller. App., pp. 24, ll. 11-19, Fig. 6. The software controller is further adapted for supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another software controller. App., pp. 22, ll. 1-12, Fig. 6.

Independent claim 12 recites a software licence management system in which a licence to use a software product is represented by a data token. App., pp. 13, ll. 11-13, Fig. 1. The system includes a software controller at a user device for controlling use of a software product at the user device. App., pp. 12, ll. 31 - pp. 13, ll. 2, Fig. 1, item 6a. A licence management server communicates with the software controller via a data communications network. App., pp. 22, ll. 1-15, Fig. 1. The software controller is adapted for allowing use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the licence management server. App., pp. 13, ll. 20 - pp. 14, ll. 2, pp. 23, ll. 1-3, Fig. 2. The software controller is further adapted for receiving an exchange token associated with the licence. App., pp. 15, ll. 26-31, pp. 22, ll. 1-12, Figs. 2 and 6. The software controller is further adapted for supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the exchange token is received by the software controller in the absence of a current data token. App., pp. 22, ll. 1-12, Fig. 6. The licence management server is adapted for storing the use period for each data token supplied to the software controller

under the licence. App., pp. 6, ll. 21-26, Fig. 6, item 51. The licence management server is further adapted for supplying via the network to the software controller a new data token in exchange for a current data token, or the exchange token, received from the software controller, the new data token having a new use period which does not overlap the use period of a data token previously-supplied under the licence. App., pp. 6, ll. 21-26.

Independent claim 21 recites a software controller for use in a software licence management system in which a licence to use a software product is represented by a data token. App., pp. 13, ll. 11-13, Fig. 1. The system includes a licence management server for communicating with the software controller via a data communications network, wherein the software controller comprises control logic for controlling use of a software product at a user device. App., pp. 12, ll. 22-25, Fig. 1, item 2. The control logic is adapted for allowing the use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the licence management server. App., pp. 23, ll. 1-3, Fig. 1, item 4. The control logic is further adapted for enabling user access to an exchange token, dependent on the current data token supplied by the licence management server, whereby the exchange token can be supplied as a current data token to another the software controller. App., pp. 19, ll. 1-6, pp. 24, ll. 11-19,

Fig. 6. The control logic is further adapted for supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another the software controller. App., pp. 22, ll. 1-12, Fig. 6. Additionally, use of the software product is not allowed if the current data token is an exchange token. App., pp. 3, ll. 28 – pp. 4, ll. 2., pp. 17, ll. 25-27, Fig. 5.

Independent claim 23 recites a software controller for use in a software licence management system in which a licence to use a software product is represented by a data token. App., pp. 13, ll. 11-13, Fig. 1. The system includes a licence management server for communicating with the software controller via a data communications network, wherein the software controller comprises control logic for controlling use of a software product at a user device. App., pp. 12, ll. 22-25, Fig. 1, item 2. The control logic is adapted for allowing the use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the licence management server. App., pp. 23, ll. 1-3, Fig. 1, item 4. The control logic is further adapted for receiving an exchange token

associated with the licence. App., pp. 24, ll. 11-19, Fig. 6. The control logic is further adapted for supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if a the exchange token is received by the software controller in the absence of a current data token. App., pp. 22, ll. 1-12, Fig. 6.

Independent claim 25 recites a computer program product stored on a computer readable medium with a computer readable program means for controlling use of a software product at a user device in accordance with a licence represented by a data token. App., pp. 13, ll. 11-13, Fig. 1. The user device is connectable to a licence management server via a data communications network. App., pp. 12, ll. 22-25, Fig. 1. The computer program includes program code means adapted to allow use of the software product at the user device substantially only during a use period associated with a current data token supplied to the user device by the licence management server. App., pp. 13, ll. 20 - pp. 14, ll. 2, Fig. 2. The program code means is further adapted to enable user access to an exchange token, dependent on the current data token supplied by the licence management server. App., pp. 19, ll. 1-6. The exchange token can be supplied as a current data token to another user

device. App., pp. 24, ll. 11-19, Fig. 6. The program code means is further adapted to supply one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another user device. App., pp. 22, ll. 1-12, Fig. 6. Use of the software product is not allowed if the current data token is an exchange token. App., pp. 3, ll. 28 – pp. 4, ll. 2., pp. 17, ll. 25-27, Fig. 5.

Independent claim 27 recites a computer program product stored on a computer readable medium with a computer readable program means for controlling use of a software product at a user device in accordance with a licence represented by a data token. App., pp. 12, ll. 22-25, Fig. 1, item 2. The user device is connectable to a licence management server via a data communications network. Id. The computer program includes program code means adapted to allow use of the software product at the user device substantially only during a use period associated with a current data token supplied to the user device by the licence management server. App., pp. 13, ll. 20 - pp. 14, ll. 2, Fig. 2. The program code means is further adapted to receive an exchange token associated with the licence. App., pp. 15, ll. 26-31, pp. 22, ll. 1-12, Figs.

2 and 6. The program code means is further adapted supply one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if a the exchange token is received by the user device in the absence of a current data token. App., pp. 22, ll. 1-12, Fig. 6.

Independent claim 29 recites a method for controlling use of a software product at a user device in accordance with a licence represented by a data token. App., pp. 13, ll. 11-13, Fig. 1. The user device is connectable to a licence management server via a data communications network. App., pp. 12, ll. 22-25, Fig. 1. The method includes allowing use of the software product substantially only during a use period associated with a current data token supplied to the user device by the licence management server. App., pp. 13, ll. 20 - pp. 14, ll. 2, pp. 23, ll. 1-3, Fig. 2. An enabling step enables user access to an exchange token, dependent on the current data token supplied by the licence management server, whereby the exchange token can be supplied as a current data token to another user device. App., pp. 19, ll. 1-6, pp. 24, ll. 11-19, Fig. 6. A supplying operation supplies one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data

token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another user device. App., pp. 22, ll. 1-12, Fig. 6. Furthermore, use of the software product is not allowed if the current data token is an exchange token. App., pp. 3, ll. 28 – pp. 4, ll. 2., pp. 17, ll. 25-27, Fig. 5.

Independent claim 31 recites a method for controlling use of a software product at a user device in accordance with a licence represented by a data token. App., pp. 13, ll. 11-13, Fig. 1. The user device is connectable to a licence management server via a data communications network. App., pp. 12, ll. 22-25, Fig. 1. The method includes allowing use of the software product substantially only during a use period associated with a current data token supplied to the user device by the licence management server. App., pp. 13, ll. 20 - pp. 14, ll. 2, pp. 23, ll. 1-3, Fig. 2. A supplying step supplies one of the current data token and an exchange token, associated with the licence, via the network to the licence management server to be exchanged for a new data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if a the exchange token is received by the user device in the absence of a current data token. App., pp. 22, ll. 1-12, Fig. 6.

Grounds for Rejection to be Reviewed on Appeal

I. Claims 1 and 4-28 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

II. Claims 1, 4-8, 10-18, 20-32 and 34 are rejected under 35 U.S.C. § 103 as obvious over U.S. Patent Application Publication No. US 2002/0194010 ("Bergler") in view of U.S. Patent No. 5,764,887 ("Kells").

III. Claim 9 is rejected under 35 U.S.C. § 103 as obvious over Bergler and Kells in view of U.S. Patent Application Publication No. 2005/0114266 ("Satkunanathan").

IV. Claim 19 is rejected under 35 U.S.C. § 103 as obvious over Bergler and Kells in view of U.S. Patent Application Publication No. 2002/0174356 ("Padole").

Argument

I. CLAIMS 1 AND 4-28 ARE DIRECTED TO STATUTORY SUBJECT MATTER

Claims 1 and 4-28 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

35 U.S.C. § 101 promulgates, "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title." 35 U.S.C. § 101. The U.S. Supreme Court recently determined that, "the machine-or-transformation test is a useful and important clue, an

investigative tool, for determining whether some claimed inventions are processes under § 101." Bilski v. Kappos, 130 S. Ct. 3218, 3227 (2010).

The Examiner argues that, "To one of ordinary skill in the art all the functions cited in these claims may be reasonably implemented as software routines." OA, pp. 3. However, as noted above, this is not a proper test for statutory subject matter.

The Office Action also alleges, "these claims do not cite any claim elements for performing the functions wherein the claimed elements of the apparatus or device are limited to a machine or a physical part of a device within the meaning of 35 U.S.C. 101." Id. However, claim 1, for example, recites in part, "a software controller at a user device for controlling use of a software product at the user device." Thus, the claim ties the claimed subject matter to a machine.

As such, claim 1 recites statutory subject matter. Claims 12, 21, 23 and 25 similarly include a user device and therefore also recite statutory subject matter. The pending dependent claims are also statutory for least the same reasons as their respective independent claim.

II. CLAIMS 1, 4-8, 10-18, 20-32 AND 34 ARE NOT OBVIOUS IN VIEW OF BERGLER AND KELLS

Claims 1, 4-8, 10-18, 20-32 and 34 were rejected under 35

U.S.C. § 103 as obvious over U.S. Patent Application Publication No. US 2002/0194010 ("Bergler") in view of U.S. Patent No. 5,764,887 ("Kells"). OA, pp. 4.

The MPEP states that "The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." MPEP § 2142.

A. The combination of Bergler and Kells fails to suggest all the claimed elements

When determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention – including all its limitations – with the teaching of the prior art." In re Ochiai, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, "obviousness requires a suggestion of all limitations in a claim." CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003) citing In re Royka, 490 F.2d 981, 985 (CCPA 1974).

Claim 1 recites in part, "enabling user access to an exchange token, dependent on the current data token supplied by the licence management server, whereby the exchange token can be supplied as a current data token to another said software controller." The claimed exchange token can be transferred to "another software controller" and exchanged for a new current data token regardless of whether the current

data token is about to expire. For example, claim 1 recites, "supplying . . . the exchange token via the network to the license management server to be exchanged for a new data token to replace the current data token . . . (b) if the current data token is an exchange token from another said software controller." The hypothetical combination of Bergler and Kells fails to disclose or reasonably suggest an exchange token as recited in the independent claims.

As the Examiner correctly points out, Bergler fails to disclose supplying the exchange token via the network to the license management server to be exchanged for a new data token to replace the current data token if the current data token is an exchange token from another said software controller. OA, pp. 5. However, the Examiner argues that column 7, lines 55-63 of Kells teaches that "after a session is set up, the credential manager will determine what the remaining lifetime of a ticket is. Just before expiration, after making such determination, the credential manager will thus preferably obtain a new token and transfer it to the server." Id. The Appellants submit that this is not what is claimed.

Column 7, lines 55-63 of Kells states, "Thus, in accordance with the invention, after a session is set up, the credential manager 128, FIG. 5, will determine what the remaining lifetime of a ticket is. Just before expiration, after making such determination, the credential manager 128 will thus preferably obtain a new token and transfer it to the server 102. This token may be seen represented as token 242 in

FIG. 6, and will be described further with reference to the event monitoring function provided by the state machine of FIG. 8." The Appellants submit that this passage does not disclose or reasonably suggest a determination that a current data token is an exchange token from another software controller. As such, the cited passage does not teach or reasonably suggest supplying the exchange token via the network to the license management server to be exchanged for a new data token to replace the current data token if the current data token is an exchange token from another said software controller. Other than the Examiner's conclusory statements, no evidence is provided in the Office Action to the contrary.

Thus, the combination of Bergler and Kells fails to disclose or reasonably suggest an exchange token to be exchanged for a new data token to replace the current data token if the current data token is an exchange token from another said software controller, as recited in claims 1, 21, 25 and 29. The combination of Bergler and Kells also fails to disclose or reasonably suggest an exchange token to be exchanged for a new data token in the absence of a current data token, as recited in claims 12, 23, 27 and 31.

As such, the *prima facie* case of anticipation fails for independent claims 1, 12, 21, 23, 25, 27, 29 and 31. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

B. The combination of Bergler and Kells is based on impermissible hindsight

Appellants respectfully submit that the combination of Bergler and Kells is improper because the Office Action relies on information gleaned solely from the Appellants' specification.

The MPEP states that "impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." MPEP § 2142. "'Any judgment on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning, but so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure, such a reconstruction is proper'." MPEP § 2145(X)(A), quoting In re McLaughlin, 443 F.2d 1392, 1395 (CCPA 1971), (emphasis added).

In the present case, the Office Action argues that one of ordinary skill in the art would combine Bergler and Kells because "it would make it more user-friendly for the subscribers." OA, pp. 5. The Office Action fails to identify what "it" is. Furthermore, the Office Action fails to cite any supporting evidence for such reasoning.

By contrast, the present application discloses and claims supplying an exchange token via a network to a license

management server to be exchanged for a new data token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another software controller.

Due to the lack of suggestion or reasoning for combining Bergler and Kells, it logically follows that the Examiner is using the pending claims as blueprint to combine Bergler and Kells and that such a combination is an exercise of impermissible hindsight. Accordingly, it is respectfully submitted that the combination of Bergler and Kell is improper.

C. No showing of likelihood of success in combining Bergler and Kells

"[T]he analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." MPEP § 2142, citing KSR Int'l v. Teleflex Inc., 82 USPQ2d 1385, 1396 (2007). "[I]mpermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art." MPEP § 2142. "[I]n many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle." KSR at 1396. "The examiner must ascertain what would have been obvious to one of ordinary skill in the art at the time the invention was made, and not to the

inventor, a judge, a layman, those skilled in remote arts, or to geniuses in the art at hand." MPEP § 2141.03, citing Environmental Designs, Ltd. v. Union Oil Co., 713 F.2d 693, 218 USPQ 865 (Fed. Cir. 1983), cert. denied, 464 U.S. 1043 (1984) (emphasis added).

The Appellants respectfully submit that the rational of combining the teachings of Bergler and Kells fails to meet the basic requirements articulated in the MPEP for establishing a *prima facie* case of obviousness since the Office Action fails to establish a finding that there was reasonable expectation of success by one of ordinary skill in the art at the time of the invention.

In the present case, the Office Action alleges "it would have been obvious to one ordinary skill in the art at the time the invention was made to use Kells in Bergler for including the above limitation because one ordinary skill in the art would recognize it would make it more user-friendly for the subscribers." OA, pp. 5.

As mentioned above, Kells relates to authentication techniques in client-server local area network (LAN) environments. Kells, col. 1, ll. 7-9, col. 1, ll. 63 - col. 2, ll. 10. Kells relies on a generic security subsystem (GSS) interface to provide tokens which encapsulate all necessary information to perform mutual authentication between the client and server. Kells, col. 2, ll. 21-24. Kells discloses obtaining a new token just before expiration of a ticket obtained from the client registry 112 using distributed

computer environment (DCE) credentials. Kells, col. 4, ll. 41-43, col. 7, ll. 55-63.

By contrast, Bergler relates to managing and enforcing software licenses through automating per-seat software licensing using a leased license approach. Bergler, [0016]. Bergler does not utilize a GSS interface to provide tokens which encapsulate all necessary information to perform mutual authentication between a client and server. Bergler does not envision obtaining a new token just before expiration of a ticket obtained from the client registry using DCE credentials.

In implicitly alleging that combining the teachings of Bergler and Kells falls within the level of one of ordinary skill in art at the time of the present invention, the Examiner fails provide any evidence of what the skill level of one of ordinary skill in the art was at the time of the invention. As discussed above, one would not be able to fit the teachings of Bergler and Kells together "like pieces of a puzzle." If the Examiner is relying upon the Examiner's own hindsight-based selection of references as defining the level of skill in the art, that determination is inherently biased and the level of one of ordinary skill in the art is no longer based on objectivity.

In addition, an argument that the Appellants have not countered with evidence that the hypothetical combination of Bergler and Kells does not fall within the level of one of ordinary skill in art impermissibly shifts the burden of proof

to the applicants when a *prima facie* case of obviousness has yet to be established by the Examiner. Thus, the Examiner fails to establish a *prima facie* case of obviousness for claims 1, 4-8, 10-18, 20-32 and 34.

D. Kells is non-analogous art

A reference relied on under 35 U.S.C. § 103 must be analogous prior art. MPEP 2141.01(a). "[T]he combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a*prima facie* case of obviousness." In re Oetiker, 977 F.2d 1443, 1447 (Fed. Cir. 1992) (emphasis added).

The Examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "Under the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the patent can provide a reason for combining the elements in the manner claimed." MPEP § 2141.01(a) citing KSR International Co. v. Teleflex Inc., 550 U.S. 398, 82 USPQ2d 1385, 1397 (2007) (emphasis added). "Two separate tests define the scope of analogous prior art: (1) whether the art is from the same field of endeavor, regardless of the problem addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular

problem with which the inventor is involved." In re Bigio, 381 F.3d 1320, 1325 (Fed. Cir. 2004). "A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem." In re Clay, 966 F.2d 656, 659 (Fed. Cir. 1992). "If a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem, and that fact supports use of that reference in an obviousness rejection." Id.

The Office Action's conclusory finding that Kells is analogous is not supported by substantial evidence. As detailed above, Kells relates to authentication techniques in client-server local area network (LAN) environments. Kells, col. 1, ll. 7-9, col. 1, ll. 63 - col. 2, ll. 10. Kells is not analogous because it does not address software license management system in which a license is used as a mechanism to control the use of licensed software products. A person of ordinary skill in the art at the time of the invention would not have been motivated to consider Kells in designing a software license management system. Thus, Kells cannot be relied on as a basis for rejection of the claims under 35 U.S.C. § 103.

Furthermore, the Office Action does not set forth any reasoning that Kells is analogous. Thus, the Examiner fails to establish a *prima facie* case of obviousness for claims 1, 4-8,

10-18, 20-32 and 34.

III. CLAIM 9 IS PATENTABLE OVER BERGLER AND KELLS IN VIEW SATKUNANATHAN

Claim 9 is dependent on and further limits claim 1. Since claim 1 is patentable over the prior art, claim 9 is also patentable over the prior art for at least the same reasons as claim 1.

IV. CLAIM 19 IS PATENTABLE OVER BERGLER AND KELLS IN VIEW PADOLE

Claim 19 is dependent on and further limits claim 12. Since claim 12 is patentable over the prior art, claim 19 is also patentable over the prior art for at least the same reasons as claim 12.

Conclusion

In view of the foregoing, Appellant submits that the rejections of claims 1, 4-32 and 34 are improper and respectfully requests that the rejections of claims 1, 4-32 and 34 be reversed by the Board.

Respectfully submitted,

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Claims Appendix

Claim 1. (previously presented) A software licence management system in which a licence to use a software product is represented by a data token, the system comprising:

a software controller at a user device for controlling use of a software product at the user device wherein the software controller is adapted for:

- allowing said use of the software product at the user device substantially only during a use period associated with a current data token representing the licence for the software product and supplied to the software controller by a licence management server, the licence management server communicating with the software controller via a data communications network;

- enabling user access to an exchange token, dependent on the current data token supplied by the licence management server, whereby the exchange token can be supplied as a current data token to another said software controller, and

- supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another said software controller.

Claims 2-3. (canceled)

Claim 4. (previously presented) A system as claimed in claim 1 wherein the token identifier for a data token comprises that data token.

Claim 5. (previously presented) A system as claimed in claim 1 wherein the system is adapted such that the use periods associated with alternate data tokens in a chain of data tokens received by the software controller from the licence management server do not overlap.

Claim 6. (previously presented) A system as claimed in claim 1 wherein:

an exchange period is associated with each data token; and

the system is adapted such that a new data token, to replace a current data token, can be obtained by the software controller only during the exchange period associated with that current data token.

Claim 7. (previously presented) A system as claimed in claim 6 wherein the use period and exchange period associated with a data token overlap.

Claim 8. (previously presented) A system as claimed in claim 1 wherein the software controller is adapted for

enabling user access to said exchange token by supplying the exchange token for storage by the user.

Claim 9. (previously presented) A system as claimed in claim 1 wherein the software controller is adapted for enabling user access to said exchange token by storing the exchange token at a back-up storage location and supplying access data, for accessing the exchange token at said storage location, to the user.

Claim 10. (previously presented) A system as claimed in claim 1 wherein the licence management server is adapted for supplying a new data token in exchange for a received token only if the received token does not correspond to a token already exchanged.

Claim 11. (previously presented) A system as claimed in claim 1 wherein the licence management server is adapted for supplying a new data token in exchange for a received token before detecting if the received token corresponds to a token already exchanged.

Claim 12. (previously presented) A software licence management system in which a licence to use a software product is represented by a data token, the system comprising:

a software controller at a user device for controlling use of a software product at the user device; and

a licence management server for communicating with the software controller via a data communications network;

wherein the software controller is adapted for

- allowing said use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the licence management server,

- receiving an exchange token associated with said licence, and

- supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if a said exchange token is received by the software controller in the absence of a current data token;

and wherein the licence management server is adapted for

- storing the use period for each data token supplied to the software controller under the licence, and

- supplying via the network to the software controller a new data token in exchange for a current data token, or said exchange token, received from the software controller, the new data token having a new use period which does not overlap the use period of a data token previously-supplied under the licence.

Claim 13. (previously presented) A system as claimed in

claim 12 wherein a said data token comprises a coin.

Claim 14. (previously presented) A system as claimed in claim 12 wherein the use period associated with a data token is indicated in the data token.

Claim 15. (previously presented) A system as claimed in claim 12 wherein the software controller is adapted for supplying one of the current data token and the exchange token automatically to the licence management server to extend the licence for the software product.

Claim 16. (previously presented) A system as claimed in claim 12 wherein:

an exchange period is associated with each data token; and

the system is adapted such that a new data token, to replace a current data token, can be obtained by the software controller only during the exchange period associated with that current data token.

Claim 17. (previously presented) A system as claimed in claim 16 wherein the exchange period associated with a data token is indicated in the data token.

Claim 18. (previously presented) A system as claimed in claim 12 wherein:

a said data token represents a licence to use a plurality

of software products; and

the software controller is adapted for storing product data, indicative of said plurality of software products, at a back-up storage location, and allowing use of each of the software products substantially only during the use period associated with the current data token supplied by the licence management server.

Claim 19. (previously presented) A system as claimed in claim 18 wherein the product data comprises, for each software product, data representing an individual licence for that software product.

Claim 20. (previously presented) A system as claimed in claim 18 wherein the product data comprises the software products.

Claim 21. (previously presented) A software controller for use in a software licence management system in which a licence to use a software product is represented by a data token, the system having a licence management server for communicating with the software controller via a data communications network, wherein the software controller comprises control logic for controlling use of a software product at a user device, the control logic being adapted for:

allowing said use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the licence management

server;

enabling user access to an exchange token, dependent on the current data token supplied by the licence management server, whereby the exchange token can be supplied as a current data token to another said software controller; and

supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another said software controller;

wherein said use of the software product is not allowed if the current data token is an exchange token.

Claim 22. (previously presented) A licence management server for use with a software controller as claimed in claim 21 in a software licence management system in which a licence to use a software product is represented by a data token, the licence management server comprising control logic adapted for:

communicating with the software controller via a data communications network;

supplying via the network to the software controller a new data token, to replace the current data token and having a new use period associated therewith, in exchange for a current data token, or an exchange token corresponding to the current

data token, received from the software controller; and

detecting if a said token received from the software controller for exchange corresponds to a token already exchanged by the licence management server.

Claim 23. (previously presented) A software controller for use in a software licence management system in which a licence to use a software product is represented by a data token, the system having a licence management server for communicating with the software controller via a data communications network, wherein the software controller comprises control logic for controlling use of a software product at a user device, the control logic being adapted for:

allowing said use of the software product substantially only during a use period associated with a current data token supplied to the software controller by the licence management server;

receiving an exchange token associated with said licence; and

supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if a said exchange token is received by the software controller in the absence of a current data token.

Claim 24. (previously presented) A licence management

server for use with a software controller as claimed in claim 23 in a software licence management system in which a licence to use a software product is represented by a data token, the licence management server comprising control logic adapted for:

communicating with the software controller via a data communications network;

storing the use period for each data token supplied to the software controller under the licence; and

supplying via the network to the software controller a new data token in exchange for a current data token, or said exchange token, received from the software controller, the new data token having a new use period which does not overlap the use period of a data token previously-supplied under the licence.

Claim 25. (previously presented) A computer program product stored on a computer readable medium, comprising computer readable program means for causing a computer to perform a computer program for controlling use of a software product at a user device in accordance with a licence represented by a data token, the user device being connectable to a licence management server via a data communications network, the computer program comprising program code means adapted to:

allow use of the software product at the user device substantially only during a use period associated with a current data token supplied to the user device by the licence

management server;

enable user access to an exchange token, dependent on the current data token supplied by the licence management server, whereby the exchange token can be supplied as a current data token to another user device; and

supply one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another user device;

wherein said use of the software product is not allowed if the current data token is an exchange token.

Claim 26. (previously presented) A computer program product stored on a computer readable medium, comprising computer readable program means for causing a computer to perform a computer program for use in a licence management server of a software licence management system in which a licence to use a software product is represented by a data token, the system including a software controller as claimed in claim 21 and the licence management server being adapted for communicating with the software controller via a data communications network, wherein the computer program comprises program code means adapted to cause the licence management server to:

supply via the network to the software controller a new data token, to replace the current data token and having a new use period associated therewith, in exchange for a current data token, or an exchange token corresponding to the current data token, received by the licence management server from the software controller; and

detect if a said token received from the software controller for exchange corresponds to a token already exchanged by the licence management server.

Claim 27. (previously presented) A computer program product stored on a computer readable medium, comprising computer readable program means for causing a computer to perform a computer program for controlling use of a software product at a user device in accordance with a licence represented by a data token, the user device being connectable to a licence management server via a data communications network, the computer program comprising program code means adapted to:

allow use of the software product at the user device substantially only during a use period associated with a current data token supplied to the user device by the licence management server;

receive an exchange token associated with said licence; and

supply one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token (a) to extend the licence for

the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if a said exchange token is received by the user device in the absence of a current data token.

Claim 28. (previously presented) A computer program product stored on a computer readable medium, comprising computer readable program means for causing a computer to perform a computer program for use in a licence management server of a software licence management system in which a licence to use a software product is represented by a data token, the system including a software controller as claimed in claim 23 and the licence management server being adapted for communicating with the software controller via a data communications network, wherein the computer program comprises program code means adapted to cause the licence management server to:

store the use period for each data token supplied to the software controller under the licence; and

supply via the network to the software controller a new data token in exchange for a current data token, or said exchange token, received by the licence management server from the software controller, the new data token having a new use period which does not overlap the use period of a data token previously-supplied under the licence.

Claim 29. (previously presented) A method for controlling use of a software product at a user device in

accordance with a licence represented by a data token, the user device being connectable to a licence management server via a data communications network, wherein the method comprises, at the user device:

allowing use of the software product substantially only during a use period associated with a current data token supplied to the user device by the licence management server;

enabling user access to an exchange token, dependent on the current data token supplied by the licence management server, whereby the exchange token can be supplied as a current data token to another user device; and

supplying one of the current data token and the exchange token via the network to the licence management server to be exchanged for a new data token to replace the current data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if the current data token is an exchange token from another user device;

wherein said use of the software product is not allowed if the current data token is an exchange token.

Claim 30. (previously presented) A method for operation of a licence management server of a software licence management system, in which system use of a software product at a user device is controlled by a method as claimed in claim 29, the method for operation of the licence management server comprising:

supplying via the network to the user device a new data token, to replace the current data token and having a new use period associated therewith, in exchange for a current data token, or an exchange token corresponding to the current data token, received from the user device; and

detecting if a said token received from the user device for exchange corresponds to a token already exchanged by the licence management server.

Claim 31. (previously presented) A method for controlling use of a software product at a user device in accordance with a licence represented by a data token, the user device being connectable to a licence management server via a data communications network, wherein the method comprises, at the user device:

allowing use of the software product substantially only during a use period associated with a current data token supplied to the user device by the licence management server; and

supplying one of the current data token and an exchange token, associated with said licence, via the network to the licence management server to be exchanged for a new data token (a) to extend the licence for the software product beyond the use period associated with a current data token supplied by the licence management server and (b) if a said exchange token is received by the user device in the absence of a current data token.

Claim 32. (previously presented) A method for operation of a licence management server of a software licence management system, in which system use of a software product at a user device is controlled by a method as claimed in claim 31, the method for operation of the licence management server comprising:

storing the use period for each data token supplied to the user device under the licence; and

supplying via the network to the user device a new data token in exchange for a current data token, or said exchange token, received from the user device, the new data token having a new use period which does not overlap the use period of a data token previously-supplied under the licence.

Claim 33. (canceled)

Claim 34. (previously presented) A system as claimed in claim 1 wherein the licence management server is adapted for:

- receiving via the network from the software controller a new data token, to replace the current data token and having a new use period associated therewith, in exchange for a current data token, or an exchange token corresponding to the current data token,

- detecting if a said token received from the software controller for exchange corresponds to a token already exchanged by the licence management server,

- detecting if the same data token is received twice for exchange,

- storing a token identifier corresponding to each data token received by the server for exchange, and

- comparing the token identifier for each received data token with the stored token identifiers to detect if the same data token is received twice for exchange;

wherein the exchange token is a copy of the current data token..

Evidence Appendix

None.

Related Proceedings Appendix

None.